

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LARRY GRAVES,)
Petitioner,)
v.)
WARDEN, FCI McKEAN,)
Respondent.)
Case No. 1:19-cv-148-SPB-RAL

MEMORANDUM ORDER

Petitioner Larry Graves, an inmate at the Federal Correctional Institution at McKean, filed the instant petition for a writ of habeas corpus naming the Warden of FCI-McKean as the Respondent. ECF No. 3. Graves is currently serving a term of imprisonment for federal drug-related offenses. In his petition, Graves seeks relief under 28 U.S.C. §2241, apparently on the basis that he was improperly sentenced as a career offender under U.S.S.G. §4B1.1.

After Graves’ petition was lodged on May 29, 2019, the matter was referred to United States Magistrate Judge Richard A. Lanzillo for a report and recommendation (“R&R”) in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and the Local Rules for Magistrate Judges. On July 6, 2021, Magistrate Judge Lanzillo issued an R&R recommending that the instant petition be dismissed for lack of jurisdiction. ECF No. 11. Judge Lanzillo opined that Graves had neither articulated an appropriate basis for relief under 28 U.S.C. § 2241 nor demonstrated that relief under § 2255 would be “ineffective or inadequate to test the legality of his detention,” as set forth in in §2255(e) and discussed in *In re Dorsainvil*, 119 F.3d 245 (3d Cir. 1997), and *Bruce v. Warden Lewisburg USP*, 868 F.3d 170, 178 (3d Cir. 2017). *Id.*

Objections to the R&R were due on or before July 23, 2021. To date, no objections have been received.

After *de novo* review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

NOW, this 12th day of August, 2021, IT IS ORDERED that the within petition for a writ of habeas corpus shall be, and hereby is, DISMISSED for lack of jurisdiction.

IT IS FURTHER ORDERED that the Report and Recommendation of Magistrate Judge Lanzillo, issued on July 6, 2021, ECF No. [11], is hereby adopted as the opinion of this Court.

As there are no further matters pending before the Court relative to the instant petition, the Clerk is directed to mark this case "CLOSED."



SUSAN PARADISE BAXTER
United States District Judge

M

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The Honorable Richard A. Lanzillo (via CM/ECF)